

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

LENZIE GILL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: 2:06cv1151-MHT
	)	
PROGRESSIVE HALCYON	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

**PLAINTIFF'S STATEMENT AS TO REASON FOR**  
**NON-COMPLIANCE WITH COURT'S ORDER**

**COMES NOW** Plaintiff Lenzie Gill, by and through his undersigned counsel, and files his statement as to the reason for his non-compliance with the Court's Order of January 8, 2007, and say's as follows:

1. That on January 8, 2007, the Court entered an Order, entitled: Rule 26(F) Order. In part, the Order directed the parties to file a Rule 26(f) report "as soon as practicable but no later than January 19, 2007."
2. That the Rule 26(f) report was not filed by the parties on or before January 19, 2007, as directed by the Court, due to no fault of Plaintiff.
3. That on January 9, 2007, the undersigned e-mailed Defendant's counsel a rough draft of the Rule 26(f) report and inquired as to whether Defendant desired any changes to the report. (see Exhibit A).
4. That on January 16, 2007, after not hearing back from Defendant's counsel, the undersigned again e-mailed Defendant's counsel and requested that he promptly let the undersigned know whether the report was acceptable in its present form or whether any changes were desired. (see Exhibit B).

5. That on January 19, 2007, after again not hearing back from Defendant's counsel, the undersigned addressed the Rule 26(f) report in a telephone conversation with Evan P. Baggett, Esq., an attorney in the office of Defendant's counsel, and requested that he remind Defendant's counsel – Larry Bradford, that the Rule 26(f) report was to be filed with the Court by the end of the day. Mr. Baggett advised in a subsequent telephone conversation that he had spoken with Mr. Bradford about the report and that Mr. Bradford would be getting with the undersigned by the end of the day on January 19, 2007. In-fact, the undersigned never heard back from Mr. Bradford.
6. Due to the actions of Defendant's counsel, Plaintiff was unable to file the Rule 26(f) report with the Court as directed in the Court's Order of January 8, 2007.

**WHEREFORE** Plaintiff requests the Court accept this statement as to Plaintiff's justifiable inability to comply with this Court's Order of January 8, 2007, and that the Court take whatever action it deems necessary to address Defendant's and its counsel's actions in this matter.

/s Jerry M. Blevins  
JERRY M. BLEVINS (BLE003)  
Counsel for Plaintiff

OF COUNSEL:  
Law Office of Jerry M. Blevins  
Hillwood Office Center  
2800 Zelda Road, Suite 200-3  
Montgomery, Alabama 36106  
(334) 262-7600 (Voice)  
(334) 262-7644 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that on the 22<sup>nd</sup> day of January, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

R. Larry Bradford, Esq.  
Bradford & Sears, P.C.  
2020 Canyon Road, Suite 100  
Birmingham, Alabama 35216

/s/ Jerry M. Blevins  
Jerry M. Blevins

Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

**From:** attyjblev@aol.com  
**To:** lbradford@bradfordsears.com  
**Subject:** Lenzie Gill v. Progressive, et cet.  
**Date:** Tue, 9 Jan 2007 8:55 AM  
**Attachments:** GillR26Report.doc (31K)

Larry:

Attached please find the rough draft of the Rule 26(f) report we are to file with the Court no later than 1/19/07. Let me know if you desire any changes.

Sincerely,  
Jerry M. Blevins

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**"EXHIBIT A"**

<http://webmail-vdb.webmail.aol.com/22250/aol/en-us/mail/display-message.aspx>

1/9/2007

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

LENZIE GILL,	)	
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Plaintiff,	)	
	)	
v.	)	Civil Action No.: 2:06cv1151-MHT
	)	
PROGRESSIVE HALCYON	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

**REPORT OF PARTIES' PLANNING MEETING**

1. Pursuant to Fed.R.Civ.P. 26(f), a meeting was held on January 9, 2007, via telephone and was attended by:

Jerry M. Blevins for Plaintiff  
R. Larry Bradford for Defendant

2. **Pre-discovery Disclosures.** The parties will exchange by February 1, 2007, the information required by Fed.R.Civ.P. 26(a)(1).

3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:

- A. Discovery will be needed on the following subjects: The allegations of the Complaint and all matters relevant thereto and those defenses asserted by Defendant in its Answer.
- B. Disclosure or discovery of electronically stored information should be handled as follows: copies of any such information shall be produced as with non-electronically stored information.
- C. The parties have agreed to an order regarding claims of privilege or of protection

as trial-preparation material asserted after production, as follows: All materials to be held strictly confidential unless and until the Court rules otherwise.

- D. All discovery commenced in time to be completed by June 30, 2007.
- E. Maximum of 40 interrogatories by each party to any other party.
- F. Maximum of 40 requests for admission by each party to any other party.
- G. Maximum of 6 depositions by Plaintiff and Defendant.
- H. Each deposition other than of Plaintiff and Defendant's corporate representative limited to maximum of 6 hours unless extended by agreement of parties.
- I. Reports from retained experts under Rule 26(a)(2) due:
  - from Plaintiff by March 15, 2007;
  - from Defendant by March 30, 2007.Supplementations under Rule 26(e) due April 25, 2007.

#### **4. Other Items.**

- A. The parties do not request a conference with the court before entry of the scheduling order.
- B. The parties request a pretrial conference in September 2007.
- C. Plaintiff should be allowed until March 1, 2007 to join additional parties and until –March 15, 2007 to amend the pleadings.
- D. Defendant should be allowed until March 15, 2007 to join additional parties and until April 1, 2007 to amend the pleadings.
- E. All potentially dispositive motions should be filed by June 1, 2007.
- F. Settlement cannot be evaluated prior to completion of discovery.

G. Final lists of witnesses and exhibits under Rule 26(a)(3) should be due

from Plaintiff by August 1, 2007;

from Defendant by August 15, 2007.

H. Parties should have ten days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

I. The case should be ready for trial by October 1, 2007, and at this time is expected to take approximately 2 days to try.

Date: January 9, 2007.

/s Jerry M. Blevins

Jerry M. Blevins (BLE003)  
Counsel for Plaintiff  
Hillwood Office Center  
2800 Zelda Road, Suite 200-3  
Montgomery, Alabama 36106  
(334) 262-7600 (Voice)  
(334) 262-7644 (Fax)

/s R. Larry Bradford

R. Larry Bradford (BRA039)  
Counsel for Defendant  
Bradford & Sears, P.C.  
2020 Canyon Road, Suite 100  
Birmingham, Alabama 35216  
(205) 871-7733 (Voice)

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**From:** attyjmblev@aol.com  
**To:** lbradford@bradfordsears.com  
**Subject:** Lenzie Gill v. Progressive, et cet.  
**Date:** Tue, 16 Jan 2007 7:47 AM

Larry:

On 1/9/07, I e-mailed you a rough draft of the Rule 26(f) report we are to file with the Court by 1/19/07. Please promptly let me know whether the report is acceptable in its present form or whether you desire any changes.

Sincerely,  
Jerry M. Blevins

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**"EXHIBIT B"**